



ARIZONA STATE SENATE
Fifty-Third Legislature, First Regular Session

VETOED

FINAL AMENDED
FACT SHEET FOR S.B. 1384

school-sponsored media; student journalists

Purpose

Provides additional free speech and freedom of the press protections for students at public schools, community colleges and universities.

Background

The First Amendment of the U.S. Constitution prohibits Congress from making any law "abridging the freedom of speech, or of the press." Two U.S. Supreme Court cases provide guidance for public school students' right to freedom of speech and freedom of the press under the First Amendment.

The first case, *Tinker v. Des Moines Independent Community School District* (393 U.S. 503, 1969), requires school officials to demonstrate that student speech would significantly interfere with the discipline needed for the school to function in order for the school to censor or control speech. The Court stated students do not lose their First Amendment rights "at the schoolhouse gates" and found that school officials could suppress student's speech only if the conduct would "materially or substantially interfere" with the operation of the school.

In 1988, the Court ruled in *Hazelwood School District v. Kuhlmeier* (484 U.S. 260, 1988) that the First Amendment offers weaker protections to student newspapers that are part of the curriculum and established by the public school than to newspapers that have been established independently by students or are designed as forums for student expression. The Court stated the First Amendment does not require schools to affirmatively promote particular types of student speech and that schools may refuse to sponsor speech that is inconsistent with its standards. Due to the school's dominant role in operating the newspaper, the Court found it was not a public forum but rather served a pedagogical purpose. Ultimately, the Court found schools are permitted to control the content of student speech as long as the schools' actions are "reasonably related to legitimate pedagogical concerns."

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Allows a student journalist at a high school, community college or university to exercise freedom of speech and freedom of the press in school-sponsored media, except in the cases outlined below.
2. States student journalists' freedom of speech and freedom of the press is not limited solely because the school-sponsored media are either:
 - a) supported financially by the local school system, the public school, the community college or the university or by the use of facilities owned by the school district, charter school, community college or university; or
 - b) produced in conjunction with a class in which the student journalist is enrolled.
3. Charges student supervisors with the responsibility to determine the content of school-sponsored media.
4. States this act does not prevent a student media adviser from teaching professional standards of English and journalism to student journalists.
5. States this section does not authorize or protect content of school-sponsored media that:
 - a) is libelous or slanderous;
 - b) constitutes an unwarranted invasion of privacy;
 - c) violated federal or state law; or
 - d) creates the imminent danger of inciting students to violate the law or district regulations or materially and substantially disrupts the orderly operation of the public school, community college or university.
6. States, except for the reasons outlined above, this section does not authorize the prior restraint of any school-sponsored media.
7. Allows a public school to restrain the distribution of content in school-sponsored media for any reason prescribed above but places the burden of providing lawful justification without undue delay on the public school.
8. Prohibits a student journalist from being disciplined solely for exercising freedom of speech or freedom of the press.
9. Prohibits a student media adviser from being dismissed, suspended, disciplined, reassigned, transferred or otherwise retaliated against solely for either:
 - a) acting to protect a student journalist engaged in exercising free speech or freedom of the press; or
 - b) refusing to infringe on conduct that is protected under freedom of speech, freedom of the press, the U.S. or State Constitutions.
10. Directs each school district and charter school to adopt, in a regular public meeting, a written policy that:

- a) includes written content standards or guidelines for school-sponsored media that is consistent with and not more restrictive than the list of activities this act does not authorize or protect;
 - b) includes a student journalist code of ethics that includes guidelines for covering content in a responsible, fair and accurate manner; and
 - c) prohibits lewd and obscene content.
11. Deems any expression made by a student in school-sponsored media as not an expression by or on behalf of the school.
 12. Exempts school districts, charter schools, community colleges and universities, or any official, employee or agent of these entities from liability in any civil or criminal action for any expression made or published by a student in school-sponsored media.
 13. Defines *school-sponsored media* as any material that is prepared, written, published or broadcast by a student journalist at a public high school, community college or university as part of a school-supported program or activity and that is distributed or generally made available to an audience beyond the classroom in which the material is produced.
 14. Defines *student journalist* as a student at a public high school, community college or university that gathers, compiles, writes, edits, photographs, records or prepares information for dissemination in school-sponsored media.
 15. Defines *student media adviser* as an individual who is employed, appointed or designed by a public school, community college or university to supervise or provide to students instruction relating to school-sponsored media.
 16. Defines *student supervisor* as a student enrolled in a public school who is responsible for editing school-sponsored media.
 17. Defines *community college* and *university*.
 18. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Removes school-sponsored media that does not comply with the written content standards of the school from the list of activities not authorized or protected under the act.
2. Eliminates, for community colleges and universities, a requirement for written content standards and protections from prior restraint.
3. Includes protections for student supervisors and defines the term.

Amendments Adopted by the House of Representatives

- Includes in school districts' and charter schools' written policies a student journalistic code and a prohibition on lewd and obscene content.

Governor's Veto Message

In his veto message, the Governor indicated his concern that the bill could create unintended consequences, especially on high school campuses where adult supervision and mentoring is most important.

Senate Action

ED	2/02/17	DPA	7-0-0
3 rd Read	2/13/17		30-0-0
Final Read	5/09/17		29-0-1

House Action

ED	3/06/17	DPA	10-1-0-0
3 rd Read	5/08/17		41-19-0

Vetoed by the Governor 5/22/17

Prepared by Senate Research

May 25, 2017

CB/jn